

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04 10641 RCL

ML Strategies, LLC,

Plaintiff,

v.

The Noisette Company, LLC  
d/b/a Noisette Company,

Defendant.

**DEFENDANT'S MOTION TO DISMISS FOR LACK OF  
PERSONAL JURISDICTION PURSUANT TO RULE 12(b)(2) OR IN THE  
ALTERNATIVE FOR *FORUM NON CONVENIENS***

Now comes the defendant, The Noisette Company, LLC, d/b/a Noisette Company (hereinafter "Noisette"), pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure, and hereby seeks a Motion to Dismiss in this case based on the lack of personal jurisdiction or in the alternative for *forum non conveniens*. In support hereof, Noisette states as follows:

1. There is no basis for jurisdiction over Noisette under the Massachusetts Long Arm Statute; and

2. Even assuming arguendo that the requirements for jurisdiction over Noisette under the Massachusetts Long Arm Statute are satisfied, jurisdiction over Noisette would nonetheless be inconsistent with the due process requirements of the Fourteenth Amendment.

3. Even assuming that plaintiff establishes personal jurisdiction, defendant moves for dismissal based on *forum non conveniens*.

In support of this motion, Noisette refers to its Memorandum of Law and supporting exhibits attached hereto.

**REQUEST FOR ORAL ARGUMENT**

Believing that oral argument may assist the Court in deciding the important issues presented, Noisette hereby requests that the Court hear oral argument regarding this Motion.

**CERTIFICATE PURSUANT TO LOCAL RULE 7.1(A)(2)**

Pursuant to LR 7.1(A)(2), Noisette's undersigned counsel hereby certifies that prior to filing this Motion, Noisette's counsel conferred with Plaintiff's counsel and attempted in good faith, but without success, to resolve the matters in issue.

Respectfully submitted,  
The Noisette Company, LLC  
d/b/a Noisette Company,  
By his attorneys,

**MORRISON, MAHONEY & MILLER, LLP**

  
\_\_\_\_\_  
Sean F. McDonough, BBO # 564723  
Daniel A. Leonardo BBO # 659085  
250 Summer Street  
Boston, MA 02210  
(617) 439-7500

Dated: April 22, 2004